Supreme Court, U.S.
FILED
OCT 6 _ 2003
OFFICE OF THE CLERK

No. 03-46

In the Supreme Court of the United States

GLOBAL RELIEF FOUNDATION, INC., PETITIONER

v.

JOHN W. SNOW, SECRETARY OF THE TREASURY

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

BRIEF FOR THE RESPONDENT IN OPPOSITION

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23 pp

QUESTION PRESENTED

Following the terrorist attacks of September 11, 2001, the President directed the Secretary of the Treasury to employ all appropriate measures to stop the flow of money supporting international terrorists. As part of that effort, and pursuant to authority conferred by statute and delegated by Executive Order, the Secretary first entered an interim blocking order pending investigation, and then designated petitioner as a Specially Designated Global Terrorist, thereby blocking petitioner's property. The question presented is as follows:

Whether the district court abused its discretion in denying petitioner's request for a preliminary injunction against enforcement of the interim blocking order.

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-10a) is reported at 315 F.3d 748. The opinion of the district court (Pet. App. 1c-61c) is reported at 207 F. Supp. 2d 779.

JURISDICTION

The court of appeals entered its judgment on December 31, 2002. A petition for rehearing was denied on April 4, 2003 (Pet. App. 1h). The petition for a writ of certiorari was filed on July 3, 2003. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

1. a. The International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1701 *et seq.*, authorizes the President to "declare[] a national emergency with respect to" "any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States." 50 U.S.C. 1701(a). In the event of such an emergency,

> [t]he President may * * * investigate, block during the pendency of an investigation, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest by any person, or with respect to any property, subject to the jurisdiction of the United States.

50 U.S.C. 1702(a)(1)(B), as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), Pub. L. No. 107-56, § 106(1), 115 Stat. 277.

b. On September 25, 2001, in response to the terrorist attacks of September 11, the President issued Executive Order No. 13,224, which was designed to prevent the flow of funds used to support international terrorist activities. 66 Fed. Reg. 49,079. In that Order, the President declared a national emergency with respect to the "grave acts of terrorism * * * and the continuing and immediate threat of further attacks on United States nationals or the United States."

Ibid. Among other authorities, the President invoked IEEPA, and he determined that actual and threatened terrorist acts constitute "an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States." *Ibid.* Executive Order No. 13,224 identified 27 terrorists, terrorist organizations, and their supporters, designated them as such, and blocked their property and property interests subject to the jurisdiction of the United States. *Ibid.*; see *id.* at 49,083. The Executive Order also authorized the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, to designate additional individuals or entities whose property or interests in property should be blocked because they "act for or on behalf of," or are "owned or controlled by," designated terrorists, or because they "assist in, sponsor, or provide * * * support for," or are "otherwise associated" with, designated terrorists or their supporters. *Id.* at 49,079-49,080.

"[B]ecause of the pervasiveness and expansiveness of the financial foundation of foreign terrorists," the President noted the need for "financial sanctions" against those who engage in or support terrorism. Exec. Order No. 13,224, 66 Fed. Reg. 49,079 (2001). The Executive Order directed "[a]ll agencies of the United States Government * * * to take all appropriate measures within their authority to carry out the provisions" of the Executive Order. *Id.* at 49,081. The Executive Order also stated that, in light of the ability of property owners "to transfer funds or assets instantaneously, prior notice to * * * persons [subject to blocking] of measures to be taken pursuant to this order would render these measures ineffectual." *Ibid.* The President accordingly determined that "there need be no

prior notice of a listing or determination made pursuant to this order." *Ibid.*

Finally, Executive Order No. 13,224 granted the Secretary of the Treasury authority to "employ all powers granted to the President by IEEPA." 66 Fed. Reg. at 49,081. The President specifically authorized the Secretary to promulgate rules and regulations to carry out the purposes of the Order, and to re-delegate such functions if necessary. *Ibid.* The Secretary has in turn delegated his authority to the Treasury Department's Office of Foreign Assets Control (OFAC).

c. OFAC is responsible for administering a range of economic sanctions programs under IEEPA and other authorities. In administering those sanctions programs, OFAC has promulgated regulations that define certain terms found in IEEPA, including "property" and "interest" in property. See, *e.g.*, 31 C.F.R. 500.311-500.312, 575.308, 575.315, 595.307, 595.310. OFAC has promulgated additional regulations that permit an individual or entity to seek a license to engage in transactions involving blocked property. See 31 C.F.R. 501.801-501.802. The regulations also establish a procedure by which a person may "seek administrative reconsideration" of a designation. 31 C.F.R. 501.807.

2. Petitioner describes itself as a "United States-based Islamic charitable organization," and asserts that its "mission has been to provide charitable relief throughout the world." Pet. 1-2. Petitioner was incorporated within the United States, but at the time of the interim blocking order at issue here, two of its three board members were foreign nationals. Pet. App. 5a. The intelligence and law-enforcement communities have long understood that some international terrorist organizations obtain funding by "us[ing] charities and non-governmental organizations ('NGOs') to funnel

money." C.A. App. E460; see, *e.g.*, *Boim* v. *Quranic Literacy Inst.*, 291 F.3d 1000, 1003-1004 & nn.3-4 (7th Cir. 2002) (noting evidence that charitable organizations may have served as a financial conduit for a Palestinian terrorist group). For that reason, the government's investigations into the funding of terrorist organizations and activities have sometimes focused on entities that hold themselves out as charitable organizations.

Petitioner's funds, accounts, and business records were initially blocked pending further investigation, in an order entered by OFAC and provided to petitioner on December 14, 2001. Pet. App. 11c. On that same day, the Federal Bureau of Investigation conducted a search of petitioner's headquarters office and the home of petitioner's executive director, and removed petitioner's records for analysis. The search was conducted under the authority of the Foreign Intelligence Surveillance Act of 1978 (FISA), 50 U.S.C. 1801 *et seq.*, pursuant to the emergency authorization of the Acting Attorney General. As provided in FISA, the search was then authorized within 72 hours by a warrant subsequently issued by the Foreign Intelligence Surveillance Court. See Pet. App. 14c-15c, 18c-22c. The district court concluded that the application for a warrant established probable cause to believe that petitioner and its executive director were agents of a foreign power within the meaning of FISA, 50 U.S.C. 1801(b)(2)(A). See Pet. App. 22c.[1]

OFAC issued the interim blocking order based on its conclusion that further, detailed investigation was necessary to determine whether petitioner is subject to designation as a Specially Designated Global Terrorist,

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[1] The search is not at issue in the current interlocutory appeal.

under IEEPA and Executive Order No. 13,224, for providing financial or other support to terrorists or their supporters. See Pet. App. 22c. During the period that the interim blocking order was in effect, petitioner requested and received from OFAC several licenses that allowed petitioner to use blocked funds for payment of business expenses and for legal representation. *Id.* at 15c.

On January 28, 2002, petitioner filed suit in federal district court, seeking declaratory and injunctive relief and a writ of mandamus that would compel the government to "unfreeze" petitioner's assets and return the property seized during the December 14, 2001, search (page 5, *supra*). See Pet. App. 15c. Before issuing the interim blocking order on December 14, 2001, OFAC reviewed both unclassified and classified information concerning petitioner. See *id.* at 14c. After the interim blocking order was issued, OFAC compiled additional information, based on its continuing investigation into petitioner's links with terrorists and their supporters. See C.A. App. E463. Materials gathered by OFAC during the course of its investigation, as well as additional materials and correspondence that OFAC received from petitioner, were submitted as the administrative record for the district court's review. See *id.* at E449. The classified information was submitted for the district court's *in camera* review (see Pet. App. 58c), in accordance with the USA PATRIOT Act's amendment of IEEPA, 50 U.S.C. 1702(c), added by USA PATRIOT Act § 106(2), 115 Stat. 278. On June 11, 2002, the district court denied petitioner's request for a preliminary injunction on the ground that petitioner had failed to demonstrate a likelihood of success on the merits of its challenge to the interim blocking order. Pet. App. 60c.

3. On May 24, 2002, while this suit was pending in the district court, OFAC proposed to designate petitioner as a Specially Designated Global Terrorist pursuant to Executive Order No. 13,224. See C.A. App. E767.[2] On August 19, 2002, petitioner submitted a lengthy pleading in the district court that discussed and responded to some of the evidence already in OFAC's possession; identified additional materials that petitioner wished to be included in the administrative record used to determine whether petitioner should be designated as a Specially Designated Global Terrorist; and recounted extensive correspondence between petitioner and OFAC related to petitioner's ability to mount a defense to the designation. See Global Relief Foundation Inc.'s R. Supp., Responding to OFAC's July 15, 2002 and Aug. 8, 2002 R. Supps. (No. 02 C 0674). At the time of the district court's order denying a preliminary injunction, those administrative proceedings were ongoing. On October 17, 2002, the Department of the Treasury, acting through OFAC, designated petitioner as a Specially Designated Global Terrorist. See 68 Fed. Reg. 400 (2002). That designation superseded the December 14, 2001, interim blocking order.

4. Petitioner's appeal, which sought reversal of the district court's denial of a preliminary injunction against enforcement of the interim blocking order, was pending at the time of the October 17, 2002, final designation. On December 31, 2002, the court of appeals affirmed the denial of preliminary injunctive relief. Pet. App. 1a-10a.

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[2] Because petitioner's funds, accounts, and business records were already frozen, and there was thus no danger of dissipation, OFAC provided prior notice to petitioner, along with the unclassified record on which the proposed designation would be based.

a. The court of appeals found that OFAC's October 17, 2002, designation of petitioner as a Specially Designated Global Terrorist did not moot petitioner's appeal from the district court's earlier denial of preliminary injunctive relief. Pet. App. 3a-5a. The court explained that some of petitioner's challenges to the interim blocking order—*e.g.*, petitioner's contention that "IEEPA *never* applies to the assets of any corporation that holds its charter from one of the United States," *id.* at 4a—would apply equally to the final designation, and it concluded that petitioner was "entitled to a prompt decision" with respect to those challenges, *id.* at 5a. The court held, however, that any issue specific to the interim order (*e.g.*, petitioner's contention that the order lacked adequate factual support) was of no continuing practical significance in light of the final designation, and that "some of [petitioner's] principal legal theories" would therefore "drop out of the case." *Id.* at 3a; see *id.* at 2a-3a. The court noted in particular that it was not deciding in this interlocutory appeal "whether [petitioner] supports terrorism (as Treasury has concluded)." *Id.* at 7a. That question, the court noted, remains pending in the district court, in petitioner's challenge to the final designation. *Ibid.*

b. The court of appeals rejected petitioner's argument "that the IEEPA does not apply to corporations that hold charters issued within the United States." Pet. App. 5a. The court explained that 50 U.S.C. 1702(a)(1)(B), which encompasses "any property in which any foreign country or a national thereof has any interest," is properly understood to refer to "beneficial rather than legal interests." Pet. App. 6a; see *id.* at 7a ("[T]he focus must be on how assets could be controlled and used, not on bare legal ownership."). The court held that foreign nationals have an "interest" in peti-

tioner's property, notwithstanding the fact that the corporation itself is chartered within this country, because petitioner "conducts its operations outside the United States; the funds are applied for the benefit of non-citizens and thus are covered by § 1702(a)(1)(B)." *Ibid.*

c. The court of appeals rejected petitioner's constitutional challenges to the interim freeze. Pet. App. 7a-9a. The court explained that "[t]here is no separation-of-powers problem" with the Executive Branch action at issue here because Executive Order No. 13,224 "delegates to the Secretary only those powers provided by statute." *Id.* at 7a-8a. The court rejected petitioner's contention that IEEPA is unconstitutional because it authorizes the use of classified information that may be considered *ex parte* by the district court. *Id.* at 8a. The court observed that *ex parte* consideration of confidential information is accepted practice in other contexts, and it stated that "[t]he Constitution would indeed be a suicide pact if the only way to curtail enemies' access to assets were to reveal information that might cost lives." *Ibid.* (citation omitted).

The court of appeals further held that petitioner was not constitutionally entitled to notice and a hearing before the entry of the interim blocking order because "postponement is acceptable in emergencies," Pet. App. 8a, and it further noted that any takings claim would be both "premature" and "in the wrong court," *id.* at 9a. Finally, the court rejected petitioner's challenges under the Ex Post Facto and Bill of Attainder Clauses. The court explained that "only criminal statutes are deemed ex post facto laws, and the IEEPA does not define a crime"; that "the IEEPA predates [petitioner's] activities, and * * * aid to the enemies of the United States has been unlawful since the Nation's founding"; and

that "implementation of the statute is in the hands of the Executive and Judicial Branches, while a bill of attainder is a decision of guilt made by the Legislative Branch." *Ibid.* (citation omitted).

d. In its concluding paragraph, the court of appeals stated:

> Because we have dealt exclusively with legal contentions, our resolution of them is conclusive and not subject to reexamination in the district court when deciding whether [petitioner] is entitled to a permanent injunction. But we have avoided any inquiry into the facts and do not attempt to anticipate the ultimate resolution of [petitioner's] claim. The central question now becomes whether the evidence supports the agency's belief that [petitioner] uses its assets to support terrorism. That question should be addressed and resolved expeditiously in the district court.

Pet. App. 9a. Judge Cudahy filed a concurring opinion, noting his "agreement with the majority both with respect to mootness and to the merits." *Ibid.*

ARGUMENT

The interlocutory decision of the court of appeals is correct and does not conflict with any decision of this Court or of any other court of appeals. Further review is not warranted.

1. This Court's usual practice is to "await final judgment in the lower courts before exercising [its] certiorari jurisdiction." *Virginia Military Inst.* v. *United States*, 508 U.S. 946, 946 (1993) (opinion of Scalia, J., respecting denial of certiorari). See, *e.g.*, *Hamilton-Brown Shoe Co.* v. *Wolf Bros. & Co.*, 240 U.S. 251, 258 (1916) (interlocutory character of a case "of itself alone

furnishe[s] sufficient ground for the denial" of review); *Brotherhood of Locomotive Firemen* v. *Bangor & Aroostook R.R.*, 389 U.S. 327, 328 (1967) ("because the Court of Appeals remanded the case, it is not yet ripe for review by this Court"). There is no reason for the Court to depart from that practice here.

To the contrary, review by this Court of the court of appeals' interlocutory ruling would be particularly inappropriate in this case. The ultimate question in petitioner's current appeal is whether the district court abused its discretion by denying petitioner's request for a preliminary injunction against enforcement of the interim blocking order. That interim order, however, has since been superseded by OFAC's final designation of petitioner as a Specially Designated Global Terrorist. A ruling by this Court upholding petitioner's prior challenge to the interim blocking order would not, in and of itself, afford petitioner any practical benefit at the present stage of the proceedings.

Although it recognized that the interim blocking order had been superseded by the final designation during the pendency of the appeal, the court of appeals concluded that petitioner's appeal was not moot, and that the court could appropriately resolve certain pure issues of law that are common to petitioner's challenges to both OFAC orders. Pet. App. 4a-5a. The court noted that its resolution of those legal questions was "conclusive" and would not be "subject to reexamination in the district court." *Id.* at 9a. That statement simply reflects the well-settled principle that the interlocutory decision of an appellate court is considered the law of the case and will not ordinarily be revisited in later proceedings before the same court or an inferior one. See, *e.g.*, *Messenger* v. *Anderson*, 225 U.S. 436, 444 (1912) (Holmes, J.) (law-of-the-case doctrine "merely

expresses the practice of courts generally to refuse to reopen what has been decided").

This Court, however, will not be bound by the interlocutory rulings of the court of appeals upon review of the district court's final judgment in this case. See, *e.g.*, *Pierce County* v. *Guillen*, 537 U.S. 129, 141 n.5 (2003) ("Even if the Washington Supreme Court adheres to its interlocutory ruling as 'law of the case,' we would still be able to review the discovery issue once a final judgment has been entered."); *Lujan* v. *National Wildlife Fed'n*, 497 U.S. 871, 881 n.1 (1990) ("earlier panel's ruling does not, of course, bind this Court"). Accordingly, even if the legal rulings of the court of appeals otherwise warranted this Court's review, that review would more appropriately be exercised after the entry of final judgment in this case. The practical impact of the court of appeals' rulings will be clearer at that time, and petitioner's challenge to its final designation as a Specially Designated Global Terrorist—the only OFAC determination that presently affects petitioner's ability to control its property—will be directly before this Court.

2. The court of appeals correctly rejected the contention (Pet. 20-25) that assets held by a domestically-chartered corporation are categorically excluded from IEEPA's coverage. See Pet. App. 5a-7a. This Court has recognized "the broad authority of the Executive when acting under" IEEPA. *Dames & Moore* v. *Regan*, 453 U.S. 654, 672 (1981); see *Regan* v. *Wald*, 468 U.S. 222, 232-233 n.16 (1984) (referring to the "sweeping statutory language" of the Trading with the Enemy Act (TWEA) and noting that IEEPA "tracks the language" of TWEA). IEEPA by its terms encompasses "*any* property in which any foreign country or a national thereof has *any* interest." 50 U.S.C. 1702(a)(1)(B) (emphasis added). OFAC regulations broadly define

the statutory term "interest" in property to mean "an interest of any nature whatsoever, direct or indirect." 31 C.F.R. 500.312.

As the court of appeals recognized, to construe the IEEPA term "interest" as limited to legal title would disserve the statute's purposes by impairing "the United States' ability to respond to an external threat." Pet. App. 6a. Rather, "the focus must be on how assets could be controlled and used, not on bare legal ownership." *Id.* at 7a. Although petitioner as a corporate entity is chartered within the United States, two of the three members of its board were foreign nationals at the time the interim blocking order was issued, see *id.* at 5a, and its "funds are applied for the benefit of non-citizens" living abroad, *id.* at 7a. Because petitioner's assets have been controlled by, and used for the benefit of, foreign nationals, they are encompassed by Section 1702(a)(1)(B).

Petitioner suggests that, even if Section 1702(a)(1)(B) extends beyond property to which foreign governments or nationals hold legal title, its scope is limited to "legally enforceable interests." Pet. 21 n.15 (emphasis omitted). Petitioner cites no authority for its proposed limitation on the scope of the covered "interests," and its proffered construction of the statutory term was recently rejected by the District of Columbia Circuit in a case presenting similar questions involving a U.S.-chartered foundation that operated as a fundraiser for Hamas in the United States. See *Holy Land Found.* v. *Ashcroft*, 333 F.3d 156, 162-163 (2003). In any event, because a majority of petitioner's board members at the time of the interim blocking order were foreign nationals, who possessed the legal right to control the disposition of the corporation's assets, the test proposed by petitioner would be satisfied here.

3. Petitioner's constitutional challenges to the interim blocking order lack merit.

a. Petitioner contends (Pet. 11-20) that the procedures employed under IEEPA are inconsistent with the Due Process Clause. That argument appears to include a challenge to the consideration by OFAC and the reviewing court of any classified information, as well as a broader complaint about OFAC's administrative procedures. Petitioner's due process arguments lack merit.

As the court of appeals recognized, IEEPA "authorizes the use of classified evidence" by the Secretary of the Treasury (and thus by OFAC as the Secretary's delegatee) in making blocking decisions, and it provides that classified information relied on by the Secretary "may be considered *ex parte* by the district court." Pet. App. 8a (citing 50 U.S.C. 1702(c)). Where, as here, classified or otherwise confidential information is directly relevant to the merits of an Executive or Judicial Branch decision, the Constitution does not categorically preclude such *in camera* inspection. See, *e.g.*, *EPA* v. *Mink*, 410 U.S. 73, 93 (1973) ("Plainly, in some situations, *in camera* inspection [of requested agency records] will be necessary and appropriate" to resolve suits under the Freedom of Information Act.); Pet. App. 8a (citing with approval court of appeals decisions upholding *ex parte* judicial consideration of classified information, and observing that "[t]he Constitution would indeed be a suicide pact if the only way to curtail enemies' access to assets were to reveal information that might cost lives") (citation omitted).[3] Petitioner's

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[3] Even apart from the government's compelling interest in fighting terrorism by cutting off the funding provided to international terrorists, there is an independent national security

reliance (see, *e.g.*, Pet. 15 & n.10, 18 n.12) on criminal cases is misplaced. Because neither the interim blocking order nor the final designation of petitioner as a Specially Designated Global Terrorist imposed any criminal sanction, the constitutional safeguards specific to criminal prosecutions are inapplicable here.

Petitioner's reliance (Pet. 12) on *Goldberg* v. *Kelly*, 397 U.S. 254, 263-271 (1970), is similarly unavailing. Neither *Goldberg* v. *Kelly* nor any other decision of this Court has construed the Due Process Clause to impose a categorical requirement that a hearing be afforded prior to any deprivation of property rights. As the court of appeals explained, "[a]lthough pre-seizure hearing is the constitutional norm, postponement is acceptable in emergencies. Risks of error rise when hearings are deferred, but these risks must be balanced against the potential for loss of life if assets should be put to violent use." Pet. App. 8a-9a (citations omitted). In light of the self-evident danger that IEEPA's purposes could be evaded if pre-seizure notice were provided, and the availability of meaningful post-seizure remedies, the Constitution did not require that petitioner be provided with notice and a hearing prior to the initial freezing of its property under the now-superseded interim blocking order. As the district court observed, moreover, petitioner "chose not to utilize many of the available administrative remedies," *id.* at 50c, even though "OFAC provided [petitioner] with a variety of post-blocking options" by which the

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interest in ensuring that classified information remains secure. Indeed, this Court has recognized that the government has a "'compelling interest' in withholding national security information from unauthorized persons in the course of executive business." *Department of the Navy* v. *Egan*, 484 U.S. 518, 527 (1988) (quoting *Snepp* v. *United States*, 444 U.S. 507, 509 n.3 (1980)).

organization might have sought to persuade OFAC to reconsider the interim blocking order, *id.* at 51c.

Petitioner also argues more generally (Pet. 11-13) that the court of appeals failed to analyze in sufficient detail the various factors bearing on its disposition of petitioner's due process claim. The district court discussed those factors at considerable length. See Pet. App. 47c-53c. The court of appeals was under no obligation to repeat that analysis, particularly in light of OFAC's issuance of the final designation during the pendency of the appeal. Moreover, the adequacy of the procedures concerning the interim blocking order, including the absence of pre-blocking notice and an opportunity for a pre-blocking hearing, is of no continuing importance to petitioner, and any challenge petitioner may have to the procedures used in connection with OFAC's final designation is not yet ripe for appellate review. In keeping with its overall approach to the case, the court of appeals therefore addressed only those aspects of petitioner's due process claims—*e.g.*, petitioner's broad legal challenge to the consideration under IEEPA of classified information under any circumstances, and its argument that pre-blocking notice and opportunity for a hearing are always required—that are common to both the interim and final orders. Nothing more was required.

b. Petitioner's Ex Post Facto Clause challenge to the interim blocking order (Pet. 26-28) also lacks merit. That order did not impose any criminal sanction, and it served an obvious and important non-punitive purpose: to ensure that petitioner's funds were not used to support terrorist activities pending OFAC's final determination whether to designate petitioner as a Specially Designated Global Terrorist. And even if the interim blocking order were found to have a punitive purpose

or effect, it would not impose *retroactive* punishment, because IEEPA predated petitioner's activities. Pet. App. 9a.

c. The court of appeals correctly held that "[a]pplication of the IEEPA is not a bill of attainder; implementation of the statute is in the hands of the Executive and Judicial Branches, while a bill of attainder is a decision of guilt made by the Legislative Branch." Pet. App. 9a. IEEPA itself does not specifically mention petitioner or single it out for unfavorable treatment. So long as OFAC's issuance of the interim blocking order was an otherwise appropriate means of administering the statute, the Bill of Attainder Clause imposes no further constraints on the regulatory actions of Executive Branch agencies, which routinely make decisions concerning specific individuals. See, *e.g.*, *Walmer* v. *United States Dep't of Def.*, 52 F.3d 851, 855 (10th Cir.) ("bulk of authority suggests" that Bill of Attainder Clause should be so understood), cert. denied, 516 U.S. 974 (1995); *Korte* v. *OPM*, 797 F.2d 967, 972 (Fed. Cir. 1986) ("The clause is a limitation on the authority of the legislative branch * * * [not] the executive branch.").

4. The court of appeals' decision does not conflict with any decision of this Court or of another court of appeals. Petitioner identifies no decision that has either adopted its proposed construction of the IEEPA term "interest" or sustained a constitutional challenge to the procedures employed by OFAC in administering the statute. Indeed, in the only other appellate decision concerning a similar designation and blocking of a domestic entity pursuant to IEEPA and Executive Order No. 13,224, the District of Columbia Circuit expressly agreed with the Seventh Circuit's analysis of the relevant statutory-construction question, and similarly rejected due process and other constitutional

challenges to the designation. See *Holy Land Found.*, 333 F.3d at 162-164.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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OCTOBER 2003